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SENATE BILL 6

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

William H. Payne

AN ACT

RELATING TO CIVIL LAW; LIMITING PUNITIVE DAMAGE AWARDS IN CIVIL
LAWSUITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. PUNITIVE DAMAGES--AWARDS IN CIVIL LAWSUITS--
LIMITS.--

A. Punitive damages, if otherwise permitted by applicable state or federal law, may be awarded against a party in a civil lawsuit only if it is proven by clear and convincing evidence that the party acted with malicious intent to injure the claimant, or that the party deliberately failed to avoid unnecessary injury that the party knew the claimant was substantially certain to suffer.

B. When a judgment for compensatory damages is not rendered against a party in a lawsuit, punitive damages may not

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1 be awarded.

2 C. A demand for punitive damages shall not be
3 included in a lawsuit as initially filed. A court may allow a
4 claimant to file an amended pleading for punitive damages only
5 upon a motion by the claimant and upon a finding by the court,
6 after review of supporting and opposing affidavits or after a
7 hearing, that the claimant will prevail on the claim for
8 punitive damages.

9 D. At the request of any party in a civil lawsuit,
10 the trier of fact shall consider in a separate proceeding
11 whether punitive damages are to be awarded and the amount of
12 the award. If a separate proceeding is requested regarding
13 punitive damages, evidence relevant only to the claim for
14 punitive damages shall not be admissible in another proceeding
15 to determine whether compensatory damages are to be awarded.

16 Section 2. PUNITIVE DAMAGES--BREACH OF CONTRACT. --
17 Punitive damages may be awarded in a breach of contract cause
18 of action only if it is proven by clear and convincing evidence
19 that the breach was without reasonable economic purpose and
20 after a finding by the court that the breach was also an
21 actionable tortious act that independently supports an award of
22 punitive damages.

23 Section 3. PUNITIVE DAMAGES--CONSIDERATION AND AMOUNT OF
24 AWARD. --

25 A. In determining the amount of punitive damages to

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1 be awarded, a trier of fact shall consider only the following:

2 (1) the severity of the harm caused by the
3 conduct;

4 (2) the duration of the conduct or any
5 concealment of it;

6 (3) the profitability of the conduct; and

7 (4) criminal penalties, if any, imposed as a
8 result of the conduct.

9 B. The amount of punitive damages awarded may be up
10 to three times the amount of compensatory damages awarded to a
11 claimant or two hundred fifty thousand dollars (\$250,000),
12 whichever is greater. A jury shall not be informed of this
13 limitation.

14 Section 4. EFFECTIVE DATE. --The effective date of the
15 provisions of this act is July 1, 2003.